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SENATE BILL 6098

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Roach and Rasmussen

Read first time 02/21/2007. Referred to Committee on Judiciary.

1            AN ACT Relating to protecting and recovering property owned by  
2 utilities, telecommunications companies, railroads, state agencies,  
3 political subdivisions of the state, construction firms, and other  
4 parties; adding a new section to chapter 80.28 RCW; adding a new  
5 chapter to Title 19 RCW; creating a new section; repealing RCW  
6 9.91.110; and prescribing penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8            NEW SECTION.    **Sec. 1.** DEFINITIONS.    The definitions in this  
9 section apply throughout this chapter unless the context clearly  
10 requires otherwise.

11            (1) "Commercial account" means a relationship between a recycler or  
12 scrap metal processor and a commercial enterprise that is ongoing and  
13 properly documented under section 3 of this act.

14            (2) "Commercial enterprise" means a corporation, partnership,  
15 limited liability company, association, state agency, political  
16 subdivision of the state, public corporation, or any other legal or  
17 commercial entity that has a current business license.

18            (3) "Commercial metal property" means: Utility access covers;  
19 street light poles and fixtures; road and bridge guardrails; highway or

1 street signs; water meter covers; traffic directional and control  
2 signs; traffic light signals; any metal property marked with the name  
3 of a commercial enterprise, including but not limited to a telephone,  
4 cable, electric, water, natural gas, or other utility, or railroad;  
5 unused or undamaged building construction materials consisting of  
6 copper pipe, tubing, or insulated or noninsulated wiring, or aluminum  
7 wire, siding, downspouts, gutters, or fence materials; aluminum  
8 decking; aluminum bleachers; historical markers; statue plaques; grave  
9 markers and funeral vases; agricultural implements, including  
10 irrigation wheels, sprinkler heads and pipes; or electrical conductors.

11 (4) "Metal property" means any item that contains metal for which  
12 the value of the metal content of the item exceeds the commercial value  
13 of the item itself, or which has reached the end of its useful life but  
14 still has residual value due to its metal content. "Metal property"  
15 does not include precious metals.

16 (5) "Nonferrous metal property" is metal property for which the  
17 value of the metal property is derived from the property's content of  
18 copper, brass, aluminum, bronze, lead, zinc, or nickel, and their  
19 alloys, and includes electronic scrap.

20 (6) "Precious metals" means gold, silver, and platinum.

21 (7) "Record" means a paper, electronic, or other method of storing  
22 information.

23 (8) "Recycler" means a person with a current business license  
24 engaged in the business of purchasing or receiving metal property for  
25 the purpose of aggregation and sale to a scrap metal processor or  
26 another recycler, and maintains a fixed place of business within the  
27 state.

28 (9) "Scrap metal processor" means a person with a current business  
29 license that conducts business from a permanent location and that is  
30 engaged in the business of purchasing or receiving metal property for  
31 the purpose of sorting or upgrading the metal in preparation for its  
32 use as feedstock in the manufacture of new products.

33 (10) "Transaction" means the purchase of any item of metal property  
34 by a recycler or scrap metal processor from a member of the general  
35 public. "Transaction" does not include the purchase or receipt of  
36 metal property by a recycler or scrap metal processor from a commercial  
37 enterprise, from another recycler or scrap metal processor, or from a

1 duly authorized employee or agent of the commercial enterprise,  
2 recycler, or scrap metal processor.

3 NEW SECTION. **Sec. 2.** RECORDS REQUIRED FOR PURCHASING METAL  
4 PROPERTY FROM THE GENERAL PUBLIC. At the time of a transaction  
5 involving nonferrous metal property, every recycler and scrap metal  
6 processor doing business in this state shall produce wherever that  
7 business is conducted an accurate and legible record of each  
8 transaction involving metal property. This record must be written in  
9 the English language and contain the following information:

10 (1) The signature of the person with whom the transaction is made;

11 (2) The time, date, location, and value of the transaction;

12 (3) The name of the employee representing the recycler or scrap  
13 metal processor in the transaction;

14 (4) The name, street address, and telephone number of the person  
15 with whom the transaction is made;

16 (5) The current driver's license number or other government-issued  
17 picture identification card number of the seller;

18 (6) A copy of the seller's government-issued picture identification  
19 card;

20 (7) A description of the motor vehicle used to deliver the metal  
21 property subject to the transaction; and

22 (8) A description of the predominant types of metal property  
23 subject to the transaction, including the property's weight, quantity,  
24 or volume.

25 NEW SECTION. **Sec. 3.** REQUIREMENTS FOR PURCHASING OR RECEIVING  
26 METAL PROPERTY FROM THE GENERAL PUBLIC. (1) No recycler or scrap metal  
27 processor may enter into a transaction to purchase or receive metal  
28 property from any person who cannot produce at least one piece of  
29 current government-issued picture identification, including a valid  
30 driver's license or identification card issued by any state.

31 (2) No recycler may purchase or receive commercial metal property.  
32 A scrap metal processor may purchase or receive commercial metal  
33 property if the seller: (a) Has a commercial account with the scrap  
34 metal processor; (b) can prove ownership of the property by producing  
35 written documentation that the seller is the owner of the property; (c)  
36 signs a receipt provided by the scrap metal processor stating that they

1 have the legal right to sell the metal property; or (d) can produce  
2 written documentation that the seller is an employee or agent  
3 authorized to sell the property on behalf of a commercial enterprise.

4 (3) No recycler or scrap metal processor may offer cash payment in  
5 exchange for metal property.

6 NEW SECTION. **Sec. 4.** RECORD FOR COMMERCIAL ACCOUNTS. (1) Every  
7 recycler and scrap metal processor must create and maintain a permanent  
8 record with a commercial enterprise, including another recycler or  
9 scrap metal processor, in order to establish a commercial account.  
10 That record, at a minimum, must include the following information:

11 (a) The full name of the commercial enterprise or commercial  
12 account;

13 (b) The business address and telephone number of the commercial  
14 enterprise or commercial account; and

15 (c) The full name of the person employed by the commercial  
16 enterprise who is authorized to deliver metal property and commercial  
17 metal property to the recycler or scrap metal processor.

18 (2) The record maintained by a recycler and scrap metal processor  
19 for a commercial account must document every purchase or receipt of  
20 metal property and commercial metal property from the commercial  
21 enterprise. The documentation must include, at a minimum, the  
22 following information:

23 (a) The time, date, and value of the property being purchased or  
24 received;

25 (b) A description of the predominant types of metal property being  
26 purchased or received; and

27 (c) The signature of the person delivering the metal property to  
28 the recycler or scrap metal processor.

29 NEW SECTION. **Sec. 5.** REPORTING TO LAW ENFORCEMENT. (1) If in the  
30 course of an investigation of metal theft by state or local law  
31 enforcement, a recycler or scrap metal processor is requested by a  
32 commissioned law enforcement officer to provide information relating to  
33 an investigation of metal theft, the recycler or scrap metal processor  
34 shall provide any pertinent records relating to the investigation  
35 subject. Failure to produce the requested information in a reasonable  
36 time as determined by the requesting law enforcement agency, but not

1 less than two business days from receipt of a written request, shall  
2 subject the recycler or scrap metal processor to a fine of up to one  
3 hundred dollars per day.

4 (2) If the records produced by the recycler or scrap metal  
5 processor are incomplete, illegible, or otherwise in violation of the  
6 requirements in section 2 of this act, a commissioned law enforcement  
7 officer may demand the disclosure of all records for the preceding  
8 ninety days. A fine of one hundred dollars per transaction shall apply  
9 to all transactions for which the records required under section 2 of  
10 this act are materially missing, incomplete, or illegible.

11 NEW SECTION. **Sec. 6.** PRESERVING EVIDENCE OF METAL THEFT. (1)  
12 Following notification, either verbally or in writing, from a  
13 commissioned law enforcement officer of the state or any of its  
14 political subdivisions that an item of metal property or commercial  
15 metal property has been reported as stolen, a recycler and scrap metal  
16 processor shall hold that property intact and safe from alteration,  
17 damage, or commingling, and shall place an identifying tag or other  
18 suitable identification upon the property. The recycler and scrap  
19 metal processor shall hold the property for a period of time as  
20 directed by the applicable law enforcement agency up to a maximum of  
21 ten business days.

22 (2) A commissioned law enforcement officer of the state or any of  
23 its political subdivisions shall not place on hold any item of metal  
24 property or commercial metal property unless that law enforcement  
25 agency reasonably suspects that the property is a lost or stolen item.  
26 Any hold that is placed on the property must be removed within ten  
27 business days after the property on hold is determined not to be stolen  
28 or lost and the property must be returned to the owner or released.

29 NEW SECTION. **Sec. 7.** UNLAWFUL VIOLATIONS. It is a gross  
30 misdemeanor under chapter 9A.20 RCW for:

31 (1) Any person to remove, alter, or obliterate any manufacturer's  
32 make, model, or serial number, personal identification number, or  
33 identifying marks engraved or etched upon an item of nonferrous metal  
34 property or commercial metal property;

35 (2) Any recycler or scrap metal processor to purchase or receive  
36 any nonferrous metal property or commercial metal property where the

1 manufacturer's make, model, or serial number, personal identification  
2 number, or identifying marks engraved or etched upon the property have  
3 been removed, altered, or obliterated;

4 (3) Any person to knowingly make, cause, or allow to be made any  
5 false entry or misstatement of any material matter in any book, record,  
6 or writing required to be kept under this chapter; or

7 (4) Any recycler or scrap metal processor to possess commercial  
8 metal property that was not lawfully purchased or received under the  
9 requirements of this chapter.

10 NEW SECTION. **Sec. 8.** EXEMPTIONS. The provisions of this chapter  
11 do not apply to transactions conducted by the following:

12 (1) Motor vehicle dealers licensed under chapter 46.70 RCW;

13 (2) Vehicle wreckers or hulk haulers licensed under chapter 46.79  
14 or 46.80 RCW;

15 (3) Persons in the business of operating an automotive repair  
16 facility as defined under RCW 46.71.011; and

17 (4) Persons in the business of buying or selling empty food and  
18 beverage containers, including metal food and beverage containers, or  
19 nonmetal junk.

20 NEW SECTION. **Sec. 9.** A new section is added to chapter 80.28 RCW  
21 to read as follows:

22 ELECTRICAL UTILITIES. The commission shall require an electrical  
23 company regulated under this chapter to mark critical infrastructure  
24 with identifying markings that are not obvious to inspection by the  
25 human eye without magnification or other assistance and to take  
26 adequate measures to secure sensitive components of the company's  
27 generating and transmission facilities. If marked equipment is stolen,  
28 the electrical company shall report the theft to the appropriate law  
29 enforcement authority along with information necessary to identify the  
30 markings required under this section.

31 NEW SECTION. **Sec. 10.** Sections 1 through 8 of this act constitute  
32 a new chapter in Title 19 RCW.

33 NEW SECTION. **Sec. 11.** RCW 9.91.110 (Metal buyers--Records of  
34 purchases--Penalty) and 1971 ex.s. c 302 s 18 are each repealed.

1        NEW SECTION.   **Sec. 12.**   Captions used in this act are not any part  
2 of the law.

3        NEW SECTION.   **Sec. 13.**   If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

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